

PATENT

Atty. Dkt. No. 03493.86913 (ATT/112518CON)

REMARKS

In view of the above amendment and the following discussion, the Applicants submit that none of the claims now pending in the application are made obvious under the provisions of 35 U.S.C. § 103. Thus, the Applicants believe that all of these claims are now in allowable form.

I. REJECTION OF CLAIMS 32, 34 AND 35 UNDER 35 U.S.C. § 103

The Examiner has rejected claims 32, 34 and 35 in the Final Office Action under 35 U.S.C. § 103 as being unpatentable over by Hluchyj, et al. (U.S. Patent 5,425,029, issued on June 13, 1995, hereinafter referred to as "Hluchyj") in view of Voit, et al. (U.S. Patent 6,870,827, issued on March, 22, 2005, hereinafter referred to as "Voit"). Applicants respectfully traverse the rejection.

Hluchyj teaches a fast packet adaptation method for ensuring packet portability across diversified switching type networks. Hluchyj teaches that a fast packet is encapsulated at a first node and then re-mapped back to a fast packet at a second node. (See Hluchyj, col. 3, l. 55 – col. 4, l. 11.)

Voit teaches voice call alternative routing through PSTN and Internet networks. Voit teaches using an advanced intelligent network (AIN) to determine routing of voice calls alternatively between a public switched telephone network (PSTN) and a data packet network, such as the internet. (See Voit, Abstract.)

The Applicants respectfully submit that Hluchyj and Voit, alone or in any permissible combination, fail to teach or suggest a network comprising a frame relay switch wherein the frame relay switch is responsive to a plurality of different service categories and configured to determine a quality of service of the plurality of different service categories responsive to layer 4 data, as positively claimed by Applicants in independent claim 32. Specifically, Applicants' amended independent claim 32 recites:

32. A network comprising:
customer premises equipment;
a frame relay switch coupled to the customer premises equipment with at least one permanent virtual circuit and receiving a plurality of frame relay data packets, the frame relay switch for translating user data within at least one of the frame relay data packets into a fast packet address;

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wherein the frame relay switch is responsive to a plurality of different service categories and configured to determine a quality of service of the plurality of different service categories responsive to layer 4 data. (Emphasis Added)

In one embodiment, the Applicants' invention teaches that layer 4 data may be utilized to determine a quality of service of a plurality of different service categories. (See Applicants' specification, page 16, line 12 – page 17, line 1.) For example, the switch can use the IP addresses and/or TCP logical ports to make quality of service (QOS) decisions. (e.g., See Applicants' specification, page 13, lines 7-9).

Additionally, in one embodiment, the Applicants' invention teaches that the switch is responsive to a plurality of service categories. The service categories may include the public internet, communication via a local intranet, communication within a closed user group (CUG), communication with an extranet, live audio/video transmission, multicasting, telephony over IP, or any combination thereof. (e.g., See Applicants' Specification, Page 13, Lines 15-21.) As such, Applicants' invention teaches a frame relay switch that is responsive to a plurality of different service categories AND configured to determine a quality of service responsive to layer 4 data.

First, the Examiner conceded that Hluchyj does not teach or suggest that the frame relay switch is responsive to a plurality of different service categories and configured to determine a quality of service responsive to layer 4 data. However, the Examiner alleged that Voit provides this teaching. Applicants respectfully disagree.

Voit only teaches a method that utilizes an advanced intelligent network that has the ability to determine whether voice calls should be routed over a PSTN or a data packet network.

At best, Voit teaches a frame relay switch that is responsive to a single service category. Voit teaches that a user's acceptable level of service may be predefined with a threshold quality level stored in the user's call processing record (CPR). (See Voit, Abstract.) A quality test application is initiated to determine whether a call is to be routed through the Internet. (See Voit, col. 7, ll. 28-42.) If the quality of service of the Internet is not satisfactory, the call is routed through the PSTN. (See Voit, Abstract.) Therefore, unlike the Applicants' invention where a frame relay switch is responsive to a plurality of different service categories, Voit teaches an AIN that is responsive to a

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single service category, i.e. the Internet.

Thus, Voit clearly only teaches the concept of determining the quality of service of a single service category, i.e. the Internet. In the Final Office Action, the Examiner asserts that Voit teaches two types of service categories in column 1, lines 26-50. However, the passage cited by the Examiner only teaches two types of services within the Internet and **NOT** service categories as positively recited by the Applicants. Nowhere does Voit use the term "service categories". In other words, the two types of services: connectionless packet delivery service and reliable stream transport service still fall within a single service category of the Internet. In contrast, the Applicants' invention teaches that the frame relay switch is configured to determine a quality of service for the plurality of service categories responsive to layer 4 data. Consequently, Voit fails to teach a frame relay switch that is responsive to a plurality of different service categories AND configured to determine a quality of service responsive to layer 4 data. As such, the combination of Hluchyj with Voit does not make obvious Applicants' invention as claimed in independent claim 32.

In addition, dependent claims 34 and 35 depend from claim 32 and recite additional limitations. As such, and for the exact same reason set forth above, the Applicants submit that claims 34 and 35 are also patentable over Hluchyj and Voit and respectfully request the rejection be withdrawn.

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Conclusion

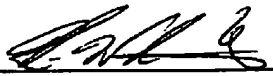
Thus, the Applicants submit that all of these claims now fully satisfy the requirements of 35 U.S.C. §103. Consequently, the Applicants believe that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring the maintenance of the present final action in any of the claims now pending in the application, it is requested that the Examiner telephone Mr. Kin-Wah Tong, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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